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GAO

United States General Accounting Office
Washington, DC 20548

Office of
General Counsel

In Reply
Refer to: B-195280

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JUL 19 1979

Mr. Leon Spiro
35 Avenue Aumont
Chantilly 60, France

Dear Mr. Spiro:

Enclosed is a copy of the decision (Martin & Turner Supply Co., 54 Comp. Gen. 395 (1974), 74-2 CPD 267) you requested in your letter dated June 17, 1979.

Although the Martin & Turner Supply Co. decision involves the procurement of services or supplies, the reasoning in that case applies to surplus sales. Section 203(e) of the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. § 484(e) (1976), requires in part that award shall be made to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Government, price and other factors considered. As stated in Martin & Turner, this language requires award on the basis of the most favorable cost to the Government. Generally, prohibiting all-or-none bids is viewed as inappropriate because it may result in higher cost (in procurements) to the Government. It was for that reason that we viewed the use of the all-or-none prohibition as improper in Martin & Turner even though the contracting officer had hoped to enhance competition by its use. We believe the prohibition is more properly limited to circumstances such as where some items would otherwise have to be awarded at an unreasonable price. Martin & Turner, supra.

We point out, for your information, that the needs of small business are recognized in the disposal regulations. For example, Federal Property Management Regulations (FPMR) § 101-45.304-4 (1964 ed.) provides:



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To the extent practicable, and consistent with the types of property and usual commercial practice, property offered for sale shall be assembled in reasonably sized lots of like or similar items by make or manufacturer. Unused property shall be lotted separately from used items. Scrap and other property having scrap value only shall be lotted in accordance with established trade practice and shall generally not be included in the same sale with usable items. Determination of the size of lots shall take into consideration the buying capacities of prospective buyers and the requirement that adequate competition be obtained. Large quantities of identical items shall be lotted in such a way as to encourage bidding by small businesses and individuals.

We hope this information is helpful.

Sincerely yours,

Ronald Berger

Ronald Berger
Assistant General Counsel

Enclosure